

Notice of Allowability	Application No.	Applicant(s)	
	10/088,032	DEWOOLFSON ET AL.	
	Examiner	Art Unit	
	Samuel W Liu	1653	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. ☒ This communication is responsive to 9/27/2004 and 1/28/05.
2. ☒ The allowed claim(s) is/are 1-5 and 8-10.
3. ☒ The drawings filed on 14 March 2002 are accepted by the Examiner.
4. ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 - a) ☐ All b) ☐ Some* c) ☐ None of the:
 1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

* Certified copies not received: _____.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.

THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.

5. ☐ A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
 6. ☐ CORRECTED DRAWINGS (as "replacement sheets") must be submitted.
 - (a) ☐ including changes required by the Notice of Draftsperson's Patent Drawing Review (PTO-948) attached
 - 1) ☐ hereto or 2) ☐ to Paper No./Mail Date _____.
 - (b) ☐ including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No./Mail Date _____.
- Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).
7. ☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

Attachment(s)

- | | |
|---|--|
| 1. <input type="checkbox"/> Notice of References Cited (PTO-892) | 5. <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 2. <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 6. <input checked="" type="checkbox"/> Interview Summary (PTO-413),
Paper No./Mail Date <u>3/3/05</u> . |
| 3. <input type="checkbox"/> Information Disclosure Statements (PTO-1449 or PTO/SB/08),
Paper No./Mail Date _____ | 7. <input checked="" type="checkbox"/> Examiner's Amendment/Comment |
| 4. <input type="checkbox"/> Examiner's Comment Regarding Requirement for Deposit
of Biological Material | 8. <input checked="" type="checkbox"/> Examiner's Statement of Reasons for Allowance |
| | 9. <input type="checkbox"/> Other _____. |

DETAILED ACTION

This Office action is in response to applicants' amendment filed 9/27/2004, which cancels claims 6-7 and 11-29, and amends claims 1-2 and 8-9. The stated amendment has been entered, as indicated in the Office action mailed 11/3/04. Thus, the pending claims 1-5 and 8-10 are therefore examined in this Office action.

EXAMINER'S AMENDMENT

An Examiner's Amendment to the record appears below. Should the change and/or additions be unacceptable to Applicant, an amendment may be filed as provided by 37 C.F.R. § 1.312. To ensure consideration of such an amendment, it **MUST** be submitted no later than payment of the Issue Fee.

Authorization for this Examiner's Amendment was given in a telephone interview with David W. Hill on March 3, 2005. Applicants agree the Examiner proposed amendment to claim 4 and the Examiner proposed "Description of the drawings" (see below).

Amendments to the claim:

The pending claim 4 has been amended as follows. Please replace the previous claim with the claims shown below.

Claim 4 (*Twice amended*): change "fibril diameter" to "diameter of the collagen fibrils".

Amendments to the specification:

On page 6, before "DESCRIPTION OF THE PREFERRED EMBODIMENTS", add the following paragraph:

Description of the drawings:

Figure 1 shows penetration of decorin into the corneal tissue of eye.

Figure 2 shows that a cornea treated five times with the decorin contains more collagen fibril-associated decorin than the untreated cornea.

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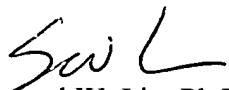
Figure 3 shows the untreated cornea.


The following is an **Examiner's Statement of Reasons for Allowance**:

Note that Examiner has considered the applicants' response (filed 1/28/05) to the Office action mailed 11/3/04. The applicants' argument against the rejection of claims 1-2 under 35 USC, 102(e) is persuasive. The prior art of record, i.e., Cintron et al. (US Pat. No. 6218360) does not teach or suggest that the method disclosed in the Cintron's patent is applied to maintaining a desired shape of cornea after non-surgical procedure, i.e., the orthokeratological procedure which utilizes contact lenses to temporarily reshape cornea of eye, as set forth in the instant claim 1. Thus, claims 1-5 and 8-10 are allowable over the art of record.

Any comments considered necessary by applicants must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

Any inquiry concerning this communication or earlier communications from the Examiner should be directed to Samuel Wei Liu, Ph.D. whose telephone number is (571) 272-0949. The Examiner can normally be reached daily except alternate Fridays from 8:30 A.M. to 5:30 P.M. If attempts to reach the Examiner by telephone are unsuccessful, the Examiner's supervisor, Jon Weber, can be reached at (571) 272-0925. The official fax number for Technology Center 1600 is (703) 308-4242. Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the Technology Center 1600 receptionist whose telephone number is (703) 308-0196.


Samuel W. Liu, Ph.D.
Art Unit 1653, Examiner
March 3, 2005


KAREN COCHRANE CARLSON, Ph.D.
PRIMARY EXAMINER